

UNITED STATES COURT OF APPEALS June 21, 2010

FOR THE TENTH CIRCUIT Elisabeth A. Shumaker
Clerk of Court

In re:

FRANK LOUIS SINDAR,

Petitioner.

No. 10-4073
(D.C. No. 2:10-CV-9999-NC)
(D. Utah)

ORDER

Before **TACHA, LUCERO, and TYMKOVICH**, Circuit Judges.

Frank Louis Sindar petitions for a writ of mandamus asking us to order the district court to assign a case number to a 28 U.S.C. § 2254 habeas petition that he claims to have filed on September 27, 2009. Mr. Sindar has not provided us with a copy of that petition or any evidence that he in fact mailed it to the district court. Nor has he attached copies of his alleged correspondence with the district court and Utah Attorney General's office relating to the petition. Instead, he relies on his own bare statements and a one-line entry in his prison account history indicating that he wrote a five-dollar check to the district court on October 7, 2009. This is insufficient to justify issuance of a writ of mandamus, which requires the petitioner to show that his right to such relief is clear and

indisputable. *In re Cooper Tire & Rubber Co.*, 568 F.3d 1180, 1187 (10th Cir. 2009).

Mr. Sindar's petition for a writ of mandamus is DENIED. His request to proceed *in forma pauperis* is GRANTED.

Entered for the Court,

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", followed by a horizontal flourish.

ELISABETH A. SHUMAKER, Clerk